



ORDINARY MEETING OF COUNCIL SUPPLEMENTARY ITEMS

To be held at 5pm on

Tuesday 20 June 2023

Council Chambers

11 Manning Street, KIAMA NSW 2533

Members

Mayor

Councillor N Reilly

Deputy Mayor

Councillor I Draisma

Councillor M Brown

Councillor M Croxford

Councillor J Keast

Councillor S Larkins

Councillor K Renkema-Lang

Councillor K Rice

Councillor W Steel

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18 LATE ITEMS

18.1 Planning Proposal - Finalisation- Lot 2 DP 1215276, 14A Bonaira Street Kiama

CSP Objective: Outcome 12: Public funds and assets are managed strategically, transparently and efficiently

CSP Strategy: 12.2 Manage our assets so that they create financial sustainability for Council

Delivery Program: 12.2.2 Identify Council owned land and property for future use or disposal opportunity; and manage in accordance with the Local Government Act

Purpose of Report

The purpose of this report is to:

- Provide Council with an overview of the community submissions and questions received through the exhibition and hearing process;
- Provide information to the community to assist in answering questions raised through the public hearing and submissions process;
- In accordance with Council's delegation received from the Minister, seek to finalise the Planning Proposal (PP) for Lot 2 DP 1215276; and
- Exercise Council's delegation to make the PP to change the classification of Lot 2 DP1215276 (the land) by way of amendment to Kiama Local Environmental Plan 2011 (LEP) from Community and to Operational land in accordance with s 3.36(2) of the EP&A Act and the Local Government Act.

Executive Summary

It is appreciated that the PP and its context is complex and is perceived by some in the community as a very significant decision for Council. It is however critical to ensure that this report is read as a matter related to the PP and the correct classification of Council owned land.

Council has previously resolved to reclassify the land in October 2022. In accordance with the resolution a PP was prepared. The PP outlined that there are three key reasons for this reclassification:

- The status of the land as community is not considered appropriate for its current use;
- The land should have been classified as Operational land within 3 months of its acquisition;
- Council must change the classification to sell the land.

Council redeveloped the land in 2019 to provide a 24-hour residential aged care facility (offering high care and low care), home care support services, independent living units, café operations (being within Barroul House) and community transport.

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The facilities at Bonaira are part of Council's Blue Haven aged care services which includes another facility known as Terralong. It is noted that Terralong site is classified as Operational.

A Gateway Determination from the Department of Planning and Environment was received on the 10 February 2023.

The process for classifying Council owned is set out in the Local Government Act and Environment Planning and Assessment Act. In line with these legislative requirements, the PP was exhibited in accordance with the Gateway Determination, with further time also afforded to allow additional submissions to be received.

A public hearing was held on 22 May 2023. The public hearing and public exhibition process raised several community concerns about the proposed reclassification of the land and the future sale of the site and associated aged care facilities. This report addresses any questions or matters outstanding.

As quoted in the public hearing report (released the 8 June 2023) there were three key elements to the community submissions:

1. Reasons – the reasons for the reclassification do not 'stack up' when viewed against the history of the land and Council's vision for the site when it was acquired and developed.
2. Process - there have been legal and procedural issues with Council's decision-making processes to date.
3. Proposal – there are deficiencies in the PP documentation and the justifications for the reclassification.

There were also a small number of submissions in favour of the reclassification.

Key questions that were raised by the community were as follows:

- Can Council lawfully operate the existing facility (including the residential aged care facility and independent living units) on community land with a plan of management in place that enables leasing for specified uses? If not, why?
- Can Barroul House and its curtilage be excised from the proposed reclassification? If not, why?
- How will the proposed sale of the land and associated facility impact Council's financial position (short and long-term)? What additional information, if any, can Council make available to the community to explain the financial implications for the potential sale and the other options it may have considered?
- Has Council acted unlawfully by resolving to sell the land before the reclassification process had commenced and was complete? If not, why?
- Has Council fully considered all interests, conditions, agreements and restrictions in the land, in particular: the interests of the residents of the independent living units? the restriction of use on the title?
- Any conditions in funding agreements for the restoration of Barroul House?

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The report outlined that the provision of information regarding the above questions may assist in responding to community concerns and will need to be given consideration in furthering the reclassification process.

This report provides information in response to the questions raised.

Having provided responses, the report then concludes with the required due process and delegation received from the Department of Planning and Environment to finalise the PP.

Risks

There are several risks that Council needs to consider as part its decision-making process:

- **Compliance with the Local Government Act** - by retaining community classification on the site, Council would be continuing to support an ongoing breach of the Local Government Act. There remains no plan of management in place for the parcel of land. Due to this, Council does not meet its obligations under the Act and the Public Land Management Practice note. Legal advice received outlines that a plan of management would be difficult to develop given the current uses on site. Further detail of this is provided later in the report. It is essential that Council meets the requirement of the Local Government Act.
- **Required Classification of Land** - Legal advice received also outlines that the most appropriate classification for the land is operational, given the uses that occur onsite. This is particularly important for the leases and licences that have been created under the Residential Aged Care Age and the Residential Villages Act. From advice received it is essential that the land be classified as operational land regardless of any potential sale. This is to ensure ongoing uses and agreements can continue to operate and existing residents' rights protected.
- **Financial Risks** – there are a number of financial risks to Council including impacts of continued noncompliance with the Local Government Act, noncompliance with the Aged Care Act, especially as Council is currently under a Performance Improvement Order and seeking support from both the Audit Office and Tcorp to support financial sustainability. Financial impacts may also result for residents of the ILU regarding lease agreements and licenses. Further detail regarding financial sustainability is provided within Attachment 1. In summary, there is a risk that not reclassifying the land from community land to operational land will remove the ability for the land (and therefore assets/business) to be divested by Council and this gives rise to legal and financial ramifications.
- **Environmental Risks** – there are no environmental risks that are created by the proposed change of classification. The development that is located on site will remain, as does the zoning of the land and the heritage listing of the Barroul House
- **Economic Risks** – there are no specific economic risks associated with the planning proposal, to seek land to be classified as operational.

Community Engagement

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A detailed section on community engagement and consultation is provided within this report and in accordance with the requirements of the EP&A Act 1979.

The outcomes of the engagement process are detailed within an independent report on both the exhibition process and the public hearing which is provided as Attachment one (1).

Policy

Kiama Municipal Council has had challenges in meeting the OLG benchmarks for financial sustainability on an annual and ongoing basis. Subject to the completion of the reclassification process, Council has made previous resolutions regarding its future intent for the site at Council meetings in October 2022 and again in February 2023. These prior resolutions have been substantially enacted and remain the resolved policy position of Council in respect to the site.

Council will remain committed to the principles of financial sustainability and good financial management, as required by the Local Government Act.

This Planning Proposal strongly aligns with the strategic direction of the organisation and the policies and plans that have been developed to meet the requirements of legislation, the Performance Improvement Order and to maintain financial sustainability.

Attachments

- 1 Public Hearing Report - Locale Consulting [↓](#)
- 2 Context - Financial Sustainability [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council as the plan making authority exercises its authority under s 3.36 of the Environmental Planning and Assessment Act 1979 to:

1. Finalise the Planning Proposal for Lot 2 DP 1215276, 14A Bonaira Street Kiama to reclassify this parcel of land to operational classification
2. Insert Lot 2 DP 1215276, 14A Bonaira Street Kiama into Schedule 4 (classification and reclassification of public Land) Part 1 (Land classified or reclassified as operational land - no interests changed).
3. Forward the resolution of Council and finalised documents to the Department of Planning and Environment.
4. Advise those making a submission of the decision of Council.

Subject Land

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The land is located at 14A Bonaira Street, Kiama in the Kiama local government area as shown in Figure 1 below. It is approximately 3.095HA in size.



Figure 1: Subject Site

The land is currently zoned R2 low density residential under the provisions of the Kiama LEP. The zoning of the land is not changed by this planning proposal. The land also contains a Heritage Item known as Item 81 Barroul House. The Heritage provisions applying to this item are unchanged by this planning proposal.



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Figure 2: Zoning of Subject Land**Public Land**

All land in or under the control of Council is called 'public land'. Public land is defined (in the Dictionary to the Act) to mean any land (including a public reserve) vested in or under the control of the council. ("Public reserve" is also defined in the Dictionary.) However, public land does not include:

- a) a road; or
- b) land to which the Crown Lands Act 1989 applies (includes land that council controls but which is owned by the Crown); or
- c) a common; or
- d) land subject to the Trustees of Schools of Arts Enabling Act 1902; or
- e) a regional park under the National Parks and Wildlife Act 1974.

Public Land must be classified as either community land or operational land. The controls that apply to 'community' land are different to those for 'operational' land.

Community land is set aside for community use (e.g. parks & sportsgrounds). Generally, it is land intended for public access and use, or where other restrictions applying to the land create some obligation to maintain public access. Its development and use is subject to strict controls:

- cannot be sold.
- cannot be leased, licensed or any other estate granted over the land for more than 21 years.
- must have a plan of management prepared for it.

Operational land serves a commercial or operational function or facilities function (e.g. offices, works depot, car park, sewage pump station, drainage reserves, leisure centres, residential areas). It has no special restrictions other than those that may ordinarily apply to any parcel of land.

The working draft Property Divestment Plan adopted in February 2023 clearly notes these distinctions for the classification of land.

The land on which Blue Haven Bonaria is located is currently classified as community under the Local Government Act 1993. This differs to Terralong which is classified as operational land.

As resolved at its meeting on 18 April 2023 Blue Haven is a category one business as the defined by the Local Government Act and is operating as a commercial facility. The restrictions that apply to community land are important as the nature of the operations at Blue Haven, require leases and licenses to be issued and estates to be granted. These are issued in the form of contracts to residents at the Residential Aged Care Facility and contracts to residents for the Independent Living Units at the Retirement Village.

There is also a requirement for a plan of management to be in place. Despite being classified as community land there has never been an adopted or draft plan of

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management for the land and the land has not been categorised, legally this does not meet the requirements of the Local Government Act 1993.

Further details of these requirements are provided later in this report.

Planning Proposal

On 10 February 2023, a delegate of the NSW Minister for Planning issued a Gateway Determination to Council for the planning proposal to proceed to the next step. This was notified to Council in the Extraordinary meeting of the 28 February 2023. The Planning Proposal process must be completed by 10 December 2023.

In accordance with the Gateway Determination Council exhibited the planning proposal. The Gateway Determination specified that:

2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as basic as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Council exhibited the planning proposal in accordance with the Gateway Determination. To ensure additional time was afforded to the community the exhibition process was extended for a further time (8 additional days) period to allow for additional submissions to be received.

During the submission period a total of 21 submissions were received, noting that following the exhibition period one of these submissions was withdrawn. A summary of these submissions is provided within the attached public hearing report.

Three Councillors made a submission to the exhibition process (this is included within the figures above). Council sought legal advice regarding these submissions, given that Council has the final plan making authority. The legal advice outlined that Councillors could legally make submissions, however needed to be considerate of their role in decision making and their need to remain impartial in the process. Following receipt of this advice, the Mayor formally withdrew his submission to the process.

Public Hearing

A public hearing was held in accordance with the Local Government Act on the 22 May 2023 from 5.30pm to 7.42pm. The hearing was notified on Council's website and via media release, those making a submission were also notified in writing.

The hearing was facilitated by Mrs Emma Broomfield of Locale Consulting. Locale also provided an independent avenue for additional submission to be made. Both written and verbal submissions were received at the hearing and could also be forwarded via email to Locale.

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A total of 34 community members attended the hearing. Of these 16 community members spoke at the hearing. Of these 15 were against the proposal and 1 was in support of the proposal.

A report on the public hearing was provided to Council on the 7 June 2023. This was made publicly available on Council's website on the 8 June 2023. This is in accordance with section 47G (3) of the Local Government Act 1993. A full copy of the public hearing report is provided as Attachment 1 to this report.

A summary of the key points raised in both written submissions and within the public hearing are as follows:

- Reason for reclassification is incorrect or is not justified
- Lack of transparency and communication with the public, both in relation to the process and decision making
- Heritage significance of Barroul House and requirements of funding agreements
- History of land use and its acquisition and development
- Concern about interests in the land and the legality of decisions relating to the proposed sale
- Concern about deficiencies in the planning proposal document.

Key Issues Raised by Community

The following detail within this report are provided to respond to the concerns raised by the community. Care has been taken to provide as much detail as possible to support a transparent and detailed response.

Information about Council's long term financial plan and strategic direction are also provided as attachment 2 to this report to assist in providing background and context for the community.

Land Classification – Local Government Act

Under the Local Government Act, all 'public land' owned by a council must be classified as either 'community' or 'operational' land (s 25 - s 26).

Public land is initially classified by one of the following means:

- a) by resolution of Council, prior to or when the land is acquired; or
- b) by a Local Environmental Plan ("LEP") prepared under the EP&A Act 1979; or
- c) by operation of the Local Government Act – a. applies to certain land controlled by Council as at 1 July 1993, or b. where Council has since acquired land and there is no resolution to classify the land;

The most common way in which to initially classify land is by resolution of Council. It is unlikely an LEP will be used for initial classification.

In this matter, the Land was acquired by KMC in 2017, however, it was not reclassified by any means before or after it was acquired. It was therefore deemed to be 'community land' for the purposes of the Local Government Act because of s 31A(2A).

Requirement for a Plan of Management

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In addition, community land can only be used and managed in accordance with a plan of management that has been adopted by a council under the Local Government Act, and according to the category that has been applied to it, in accordance with the list in s 36(4),1 being:

- a) a natural area;
- b) a sportsground;
- c) a park;
- d) an area of cultural significance; or
- e) general community use.

These categories reflect the land's use and/or describe the physical characteristics of the land and are intended to focus the council's attention on the essential nature of the land and how these areas are to best be managed.

Section 36(4) specifies that community land is to be categorised in a plan of management as one or more of the following—

- a) a natural area,
- b) a sportsground,
- c) a park,
- d) an area of cultural significance,
- e) general community use.

The site contains a 24/7 residential aged care facility, onsite retirement village, commercial café, community transport and home care services. These services are delivered by a range of staff who work from the site, 24 hrs a day, 7 days a week.

Given the nature of the land and the current and ongoing uses of the site, the only categorisation that could apply would be general community use. However, 106 of the Local Government (General) Regulation 2021 (LG Regulation) provides that land so categorised may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public.

It is imperative to understand that the land has never been formally classified as community land. No resolution of Council exists to support this form of classification. The site became automatically classified as community land through the failure to formally classify the land within 3 months of it coming into Council's ownership. There has never been an adopted or draft plan of management for the land prepared, and the land has never been formally categorised. This is a breach of the Local Government Act. Council staff conducted a thorough search of all records, correspondence and emails and can find no documented evidence to support any decision or intent to classify the land intentionally as community.

A further matter of concern in considering community classification is the following requirement:

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“Until a plan of management for community land is adopted the nature and use of the land must not be changed (s.44). This means that council cannot carry out new development on the land. It also means that council cannot grant a lease, licence or other estate over the land until a plan of management is in place.”

In essence, without a plan of management in place Council should not have proceeded to develop the land as a commercial site for the operations of an aged care facility and entered contracts with residents of the RACF or Retirement Village. If the site remains classified as community an urgent plan of management will need to be completed, and legal advice to Council notes that *“any potential categorization of the land prescribed under the Local Government Act does not align with the current use of the land as an RV or RACF”*.

To explain this in full an extract from Practice Note No. 1 Public Land Management is included below to outline this requirement:

Any public land that is acquired by or vested in council after 1 July 1993 may be classified by resolution of council. Land must be classified on or before its acquisition by council (s.31(2)). If not, the land is automatically classified as community (s.31(2)).

In practical terms, this means that council should classify land before acquisition. If land is formally acquired between council meetings, it is too late to classify the land at the next meeting if it is intended that the land be operational. A council must give public notice of a proposed resolution to classify public land as either operational or community land. A period of at least 28 days for public submissions must be given (s.34). This requirement also applies to land that the council is intending to acquire but has not yet finally purchased (with one exception explained in s.34(4)).

Plans of management must be prepared for all community land. They are not only required under the Act but are an essential management tool. Plans of management:

- *are written by council in consultation with the community*
- *identify the important features of the land (eg natural significance, sportsground)*
- *clarify how council will manage the land, and in particular*
- *indicate how the land may be used or developed, eg leasing.*

Experience since the commencement of the Act in 1993 has shown that a few councils still have difficulty in understanding the necessity for adequate plans of management. Court decisions have assisted in the interpretation of the Act and have demonstrated the consequences of misunderstanding the requirements.

This Practice Note aims to assist with the requirements for plans of management set out in the Local Government Act. Substantial management issues for public land are dealt with in other publications, including the “Land Management Manual” (1993) published by Manidis Roberts Consultants and the then Department of Conservation and Land Management (now Department of Land and Water Conservation). Chapter 5 of that Manual was revised and issued separately in 1996. Council should also refer, where relevant, to DUAP’s “Urban

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Bushland Management Guidelines” (1991). (These Guidelines are currently being reviewed by DUAP.) Plans of management do not have to be lengthy documents. The provisions of the Act can be dealt with simply and succinctly. Council may of course add additional information where appropriate. An outline of a plan of management addressing the minimum requirements of the Act.

Apart from the benefits of properly managing community land, there are legal requirements under the Act. A council must prepare a plan of management for community land (s.36). A plan of management may apply to one or more areas of community land (a ‘generic’ plan) or to just one area (a ‘specific’ plan). Councils are free to determine whether a generic or specific plan of management will be prepared for its community land, with a few exceptions. Sections 36A-36D require specific plans of management to be prepared for certain pieces of community land.

Until a plan of management for community land is adopted the nature and use of the land must not be changed (s.44). This means that council cannot carry out new development on the land. It also means that council cannot grant a lease, licence or other estate over the land until a plan of management is in place.

It has been stated within submissions to the Public Hearing and Exhibition process that the Council intended for the land to be classified as community land. Several submissions and statements made at the public hearing suggested that the Planning Proposal made false statements about the classification of the land being an administrative error. It was outlined at the hearing and in submission that the intent of Council at the time was for the classification to automatically revert to community land.

As noted above, no evidence of Council formally resolving its position on land classification exists and therefore cannot be proven. Whilst it cannot be proven that this was the intent of the Council at this time, what can be seen from the above extracts from the Public Land Management Practice Note is that certain processes and requirements were not met even if this was the intent of Council at the time. These should have occurred prior to acquisition and prior to the land being developed and leases/licenses issued.

A review of all available Council’s records including emails, public records and other documentation has been undertaken. No evidence can be found of formal classification of land or instructions or activities to prepare a plan of management being developed or being requested to be developed.

Furthermore, reviews of the original masterplan for the site and preliminary investigations / feasibility studies show documented evidence that Council at one stage intended to create separate residential allotments (a total of 10 houses) to be built on part of the site (which cannot legally occur on community land), this was part of original feasibility studies for the proposal. This kind of explored concept for the redeveloped site tends to show an intention to classify as operational, not community.

Appropriate Classification of Land – Operation of Aged Care Facility

Legal advice was sought on the appropriate classification of the land at Bonaira. Extracts of this legal advice have been provided below. Council has provided this advice (even though legal advice is privileged and confidential) to show the community

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that the outcome of the advice is that the most appropriate classification of the land given current and future intended uses, is for the land to be classified as operational.

“One major consequence of community classification is that it determines the ease or difficulty with which the land may be alienated by sale, leasing or some other means. This is because, under s 45 of the Local Government Act, a council has no power to sell, exchange or dispose of community land. Similarly, leases or licences over community land for longer than 5 years can only be entered into with the Minister’s consent if a person objects to the lease or licence, and any leases, licences of other estates granted intended to be granted for more than 21 years cannot be done without Ministerial approval (s 46).

Further, as discussed above, the RV residents have an ‘estate’ in the Land by virtue of the statutory charge created under s 24A of the RV Act. In our view, the current grant of an estate in the Land may be permitted under s 46(4) of the Local Government Act, which permits the use of the Land for the purposes of the provision of services and facilities appropriate to the current and future needs within the local community and the wider public in relation to the physical, social and intellectual welfare or development of persons.

However, while we consider the granting of an ‘estate’ in the Land for the abovementioned purpose may be permitted under s 46 of the Local Government Act, this is only permitted with the express authorisation in the plan of management and may not otherwise be granted.

Because there is no plan of management applying to the Land, the ‘estate’ that has been created in the Land by virtue of s 24A of the RV Act is not permitted under the Local Government Act.

Further, we do not consider that a plan of management could be created for the Land while it is currently being used for the purposes of an Aged Care Facility, because it would not fit into one of the categories for the use of community land permitted under s 36 of the Local Government Act.

In addition to the above, we understand that most of these ‘estates’ created in the Land will likely exceed 5 years. In order to do this, prior to creating any such interest in the Land, KMC must follow the process set out in s 47 of the Local Government Act. This requires that KMC give public notice of the proposal and place it on public exhibition. That notice must contain the information specified in s 47(2) and KMC must consider all submissions duly made prior to granting that ‘estate’ in the Land.

For all of the abovementioned reasons, we do not consider it appropriate that the Land is classified as community land under the Local Government Act, and we consider that the Land should be reclassified as operational land under the Local Government Act.”

Barroul House - Heritage Listing

It is acknowledged that Barroul House is a significant local building and holds a rich heritage for the Kiama Community. It is acknowledged and outlined through the submissions received that the community have taken care and time to ensure that the

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house is restored and that the development of the Blue Haven Site has enabled this restoration to be completed.

The Planning Proposal that is the subject of this report does not seek to change that heritage listing. Nor does it change the zone or permissible uses on the land. Barroul house is listed within the Kiama Local Environmental Plan (181) as an item of local historical significance. It is protected by this heritage listing. Regardless of the classification of the land, the heritage listing remains. The ownership of the land also does not impact the heritage listing or significance of the place. There are heritage buildings listed in Kiama Municipal Council area and Council does not own all of these buildings, and does not need to in order to retain heritage value. Heritage value exists and is protected by State and Local Government legislation.

A review of past documentation related to the original masterplan and development, including the heritage impact statements, show that significant effort was made to ensure that the building was located and operated as part of the aged care facility. The connection of the house to the aged care facility was considered important in the interpretation of the heritage significance of house given the site was to be use as a hospital/ RACF.

The local heritage listing means that the house is afforded the following protections under Clause 5.10 of Kiama Local Environmental Plan regardless of the classification of the land or the ownership of the item.

Extract Kiama Local Environmental Plan(1) Objectives

The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of Kiama,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

(2) Requirement for consent

Development consent is required for any of the following—

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—*
 - (i) a heritage item,*
 - (ii) an Aboriginal object,*
 - (iii) a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*

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- (c) *disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
 - (d) *disturbing or excavating an Aboriginal place of heritage significance,*
 - (e) *erecting a building on land—*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
 - (f) *subdividing land—*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development—

- (a) *on land on which a heritage item is located, or*
- (b) *on land that is within a heritage conservation area, or*
- (c) *on land that is within the vicinity of land referred to in paragraph (a) or (b),*

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—

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- (a) *the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
 - (b) *the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
 - (c) *the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
 - (d) *the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
 - (e) *the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

Barroul House – Subdivision Potential

Requests received through submissions have sought to excise the portion of the land on which Barroul House is located from the remainder of the lot and for the Planning Proposal to be varied to retain a community classification over Barroul House. It is noted that a Notice of Motion is also contained within this Business Paper. It is understood that this request is to seek for the house to be retained in community ownership and to afford permanent access to the house.

Classification of land applies to the land itself and is attributed to a complete allotment. This is because the requirements and restrictions in place for classifications cannot be spread over a parcel of land. The ability for operational land to be sold means that it must apply to a whole lot.

A subdivision of the parcel of land would need to occur first to change the lots and allow for separate classifications to be applied.

There are several issues that have been identified with the proposal to subdivide portions of the lot. The preliminary investigation of this option has been undertaken, noting a further assessment would be required to enable Council to understand whether subdivision could legally occur.

From an initial assessment the following issues could result:

- There are joined services including sewerage, water and electricity within the subject land which make subdivision difficult.
- There is a potential inability to meet provisions and requirements of Kiama Development Control Plan if land is subdivided - noting the location of a car park in the required rear setback of the proposed development and other requirements related to setbacks, access, heritage provisions etc.
- Inability to adequately provide access and car parking for either parcel of land - access to a rear site cannot be provided through public community land.
- Potential inability to meet the provisions of the SEPP Seniors living.
- Roads cannot be developed over community land to provide access to adjoining land under the Roads Act.

Supplementary Reports

18.1 Planning Proposal - Finalisation- Lot 2 DP 1215276, 14A Bonaira Street
Kiama (cont)

-
- Lot size requirements and permissibility of development.
 - The original development proposal utilised the heritage provisions of the LEP to allow for additional height, scope and scale of the development.
 - Agreements in place for residents which provides access and services from Barroul House.
 - Bushfire provisions and asset protection zone requirements.
 - Fire hydrants are located within the curtilage of the suggested subdivided lot.

As outlined above subdivision of the land would need to occur first before recommencing the planning proposal process. This in essence delays the decision of Council for some time and would be a significant risk to the organisation. This would significantly delay any process for either reclassification or sale of the site.

The Planning Proposal must be completed by December 2023 and it is unlikely that a subdivision could occur by this timeframe, therefore it is likely that a new planning proposal would need to occur. It is also likely that a new planning proposal would need to occur because a new lot would be added for consideration that was not included within the original proposal. This is a substantial change to the proposal.

Furthermore, the subdivision would not guarantee any differing outcome for Barroul House that are not otherwise afforded from the current Heritage listing which is in place. The heritage listing remains and any change or development to the house would require Council approval through a development application process. The heritage listing will remain regardless of the classification of the site as either community land or operational land.

Interests on land

Council has sought specific legal advice regarding interests on land and has reviewed all documentation regarding the original sale, restriction on the use on title and funding conditions.

The land was acquired from the NSW State Government in 2017. It is understood that as part of the sale a restriction of use was placed on the title of the land requiring the land to be used as “a residential aged care facility constructed to accommodate not less than 134 beds” and “as seniors living accommodation including independent living units and assisted living units and all ancillary facilities and uses” (registered dealing AM102955P).

This is effective for 10 years from 18 January 2017. In addition to the restriction of use, a notation is also registered on title in respect to use of part of the site for a retirement village (dealing AP684104R). This notation is made under section 24A of the Retirement Villages Act 1999 (NSW) and covers the residential aged care facility and independent living units. It excludes the remainder of the site including Barroul House and its surrounds as well as the driveway and carpark.

The PP provides (and it is confirmed) that ***there is no intention to remove any land restrictions or to extinguish any of the existing interests in the land***. Therefore, it is not necessary for the LEP to specifically provide for this or for the Governor to approve of these changes under s 30 of the LG Act, before the LEP is made.

Supplementary Reports

18.1 Planning Proposal - Finalisation- Lot 2 DP 1215276, 14A Bonaira Street
Kiama (cont)

It is **only if interests were to be removed** that Council would need to consult with the person who has the benefits under each of the dealings and seek the Governor's approval to remove any restrictions or extinguish interests before it can make its proposed LEP.

This is an important point for those who reside in the RV and the RACF, as there is no intended change of use to occur on site, it is purely the appropriate classification of land being recommended.

Impartiality of Decision

Concerns have been raised about the impartiality of decision makers and the process given the intention to sell the land has been outlined throughout the process. This is particularly important as Council has been granted the delegated role of making the final decision on the planning proposal.

There are two options that the Department of Planning and Environment can (1) consider either the Minister formally makes the plan (or the final decision) or (2) Council is granted plan making powers. In this case Council was granted final decision-making powers. Therefore, significant care has been taken to ensure impartiality of the decision-making process and specific advice sought to assist Council staff work through this process with elected representatives.

Legal advice was sought on this matter and outlined that there were still certain steps required by the statutory process to be undertaken, before the final decision is made. Which included the public hearing and final reports. These actions have not all been completed.

The legal advice states:

"In the case of Mc Govern, Spigelman CJ noted Councillors expressed certain views consistently and well prior to a final decision made but stated "However, that is not evidence that either Councillor was not open to persuasion". The Chief Justice then stated "Before the final approval each indicated that she had formed a firm view, but that is not enough. None of the evidence suggests that either Councillor had become so staunch an advocate that they were impervious to new information or argument."

His honor then further stated that " Nothing they said was open to the interpretation that they would not take new information into account or that they would not listen to other views.

In this regard and in the context of Council being the decision maker, the Chief Justice concluded: In the context of a multi member elected decision making body there is no requirement that each of the decision makers must keep an open mind until every decision is prepared to make a decision. It is perfectly legitimate for one member of such a collegial body to make up his or her mind before others do so and in accordance with a process of democratic decision making, to seek to persuade other decision makers to agree with his or her conclusion, if necessary, by changing their minds".

It is also completely legitimate for Council to outline its intent and policy position for the management of its assets and financial sustainability as it has previously done in October 2022 and February 2023 concerning this site.

Supplementary Reports

18.1 Planning Proposal - Finalisation- Lot 2 DP 1215276, 14A Bonaira Street
Kiama (cont)

Ongoing Operations

There have been concerns raised by community that the reclassification and subsequent sale of Blue Haven will remove aged care services from the LGA. It is important to note that subject to the reclassification, the proposed divestment of Blue Haven Bonaira is to be another aged care provider.

Council agrees that the ongoing provision of aged care services within the LGA is important and must remain, however this can be achieved without Council being the owner / operator.

The beds that are provided within Blue Haven are essential and form part of a broader network of aged care services within the Illawarra region, where there is a known shortfall of beds in RACF's. There is no intent for any RACF places to be removed from the LGA. This report is strictly about the correct classification of the land to allow the existing operations to continue occurring now and into the future.

Finalisation of the Planning Proposal

Exhibition of the planning proposal has occurred, and a public hearing held. Details of these are provided in this report. The questions raised have been considered and answers provided within this report, or received through legal advice and further review of Council records and documentation relating to the site. All tasks required as part of the due process have occurred in line with the legislation.

It is the recommendation of this report that the Planning Proposal now be completed under s 3.36 of the Environmental Planning and Assessment Act 1929. It is noted that the Gateway was conditioned for Council to be authorised as the local plan - making authority.

5. The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
 - (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.

It is the professional advice of Officers that the appropriate classification of the land at Blue Haven Bonaira, in accordance with the Local Government Act, is that of operational classification. As Council is currently in breach of the Local Government Act and the requirements of the Aged Care Act need to be maintained it is recommended that the correct classification be applied to the site.

The decision regarding the reclassification of this parcel of land is an important strategic and policy decision of Council to ensure that it meets the requirements of the Local Government Act, OLG benchmarks and can continue to provide for our community into the future.

Supplementary Reports

18.1 Planning Proposal - Finalisation- Lot 2 DP 1215276, 14A Bonaira Street
Kiama (cont)

Council has undertaken the process in accordance with the Environmental Planning and Assessment Act and the Local Government Act. This has been confirmed through external legal advice and a review of the process undertaken.

This reclassification process is one component of the detailed and extensive plan that Council has developed to ensure the ongoing viability of the organisation.

It is recommended that Council finalises the reclassification process and makes the changes to Kiama Local Environment Plan to classify the land as operational land.

Item 18.1



Kiama Municipal Council

Public Hearing Report Planning Proposal

Lot 2 DP1215276
14A Bonaira Street, Kiama

June 2023



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1. Introduction

1.1 Purpose of this Report

The purpose of this report is to provide a record of the public hearing undertaken in association with the planning proposal to change the classification of Lot 2 DP1215276 (the land) by way of amendment to the Kiama Local Environmental Plan 2011 (LEP). The land is located at 14A Bonaira Street, Kiama and is known as the Blue Haven Bonaira aged care facility.

This report has been prepared by Emma Broomfield, Director of Locale Consulting, who was the independent chair of the Public Hearing (the hearing). Cinnamon Dunsford, Principal Planner at Locale Consulting, also assisted with the facilitation of the hearing and preparation of this report.

1.2 Background

Council is the owner of the land which is currently classified as community under the *Local Government Act 1993*. Despite being classified as community, there is no adopted or draft plan of management for the land and the land has not been categorised. The land to be reclassified is shown in Figure 1 below.



Figure 1: Location of land to be reclassified (source: Planning Proposal MMJ Town Planning & Advisory)

Council resolved to reclassify the land in 2022. In the planning proposal, Council has stated that there are three key reasons it is now being reclassified:

- The status of the land as community is not considered appropriate for its current use
- The land should have been classified as operational land within 3 months of its acquisition
- Council must change the classification to sell the land

1.3 Context

Council advised that it acquired the subject land from the NSW State government in 2017. It is understood that as part of the sale a restriction of use was placed on the title of the land requiring the land to be used as *"a residential aged care facility constructed to accommodate not less than 134 beds"* and *"as seniors living accommodation including independent living units and assisted living units and all ancillary facilities and uses"* (registered dealing AM102955P). This is effective for 10 years from 18 January 2017.

In addition to the restriction of use, a notation is also registered on title in respect to use of part of the site for a retirement village (dealing AP684104R). This notation is made under section 24A of the *Retirement Villages Act 1999* (NSW) and covers the residential aged care facility and independent living units. It excludes the remainder of the site including Barroul House and its surrounds as well as the driveway and carpark.

It is noted that both of these dealings were referenced in the planning proposal but not fully disclosed.

Council redeveloped the land in 2019 to provide a 24-hour residential aged care facility (offering high care and low care), home care support services, independent living units, café operations (being within Barroul House) and community transport.

The facilities at Bonaira are part of Council's Blue Haven aged care services which includes another facility known as Terralong. It is noted that Terralong site is classified as operational.

On 8 November 2022 Council received a performance improvement order from the Office of Local Government and a temporary advisor was appointed. The order primarily relates to Council's financial position and makes specific reference to the Blue Haven aged care facilities. A final compliance report is due by 30 June 2023.

2. Subject land and planning proposal

2.1 Location and details of subject land

The land is located at 14A Bonaira Street, Kiama in the Kiama local government area as shown in Figure 2 below. It is approximately 3.095HA in size.



Figure 2: Location of subject land

The land includes:

- A 134-bed residential aged care facility regulated under the *Aged Care Services Act 1997* (Cth)
- 59 independent living units regulated under the *Retirement Villages Act 1999* (NSW)
- Barroul House which is listed as having local heritage significance under the LEP
- Matterson Hall
- Chapel, gym, hairdresser

The front of the site includes open parklands and a small children's playground. There is informal public access through the site to the Bonaira Native Gardens via a gate in the fence at the rear of the property.

2.2 Zoning of the subject land

The land is currently zoned R2 low density residential under the provisions of the LEP as shown in Figure 3 below. The land is proposed to retain its current zoning.

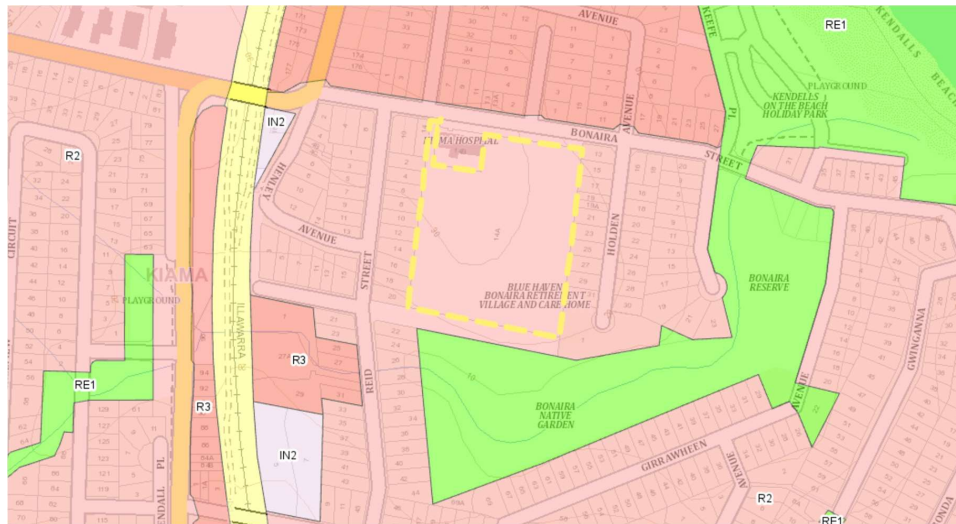


Figure 3: Zoning of subject land (source: Planning Proposal MMJ Town Planning & Advisory)

2.3 Planning proposal and exhibition process

On 10 February 2023, a delegate of the NSW Minister for Planning issued a gateway determination to Council for the planning proposal to proceed to the next step. The planning proposal was placed on public exhibition for feedback from 6 March 2023 to 11 April 2023. Council received 21 submissions during the exhibition process. This includes submissions from three current councillors including the Mayor. It is noted that Council has advised the submission from the Mayor was subsequently withdrawn.

These submissions were reviewed in advance of the hearing. The key themes arising from the submission are set out in Section 4.5 of this report with a detailed summary of each submission contained in Appendix D.

3. Public hearing format and process

3.1 Overview

As the planning proposal includes the reclassification of public land from community to operational, a public hearing was held under the *Local Government Act 1993*. This was independently Chaired and facilitated by Emma Broomfield and Cinnamon Dunsford of Locale Consulting.

The public hearing was held Monday, 22 May 2023 from 5.30pm to 7.42pm at the Council's Chambers. Council gave notice of the public hearing on its website and by direct notification.

3.2 Council staff and councillors present

The following Council staff were present at the hearing:

- Jessica Rippon – Director Planning, Environment and Communities
- Joe Gaudiosi – Chief Operating Officer
- Michael Malone – Director Infrastructure and Liveability (noting arrival after the introductions)
- Claire Doble – Communications & Engagement Officer
- Megan Lopez – Marketing & Communications Officer – Blue Haven

The CEO, Jane Stroud was an apology. Staff were present in an observing capacity and to assist with the administration of the hearing, except for Joe Gaudiosi who provided an overview of the broader context at the beginning of the hearing.

The following councillors were present at the hearing in an observing capacity:

- Councillor Keast
- Councillor Renkema-Lang
- Councillor Croxford (noting arrival after the introductions)

3.3 Registration of speakers

Residents were asked to register to speak in advance of the hearing by contacting Council and were provided with a set of Guidelines to ensure the smooth running of the hearing. These Guidelines are included in this report as Appendix A. The Guidelines included a 5-minute time limit per speaker.

3.4 Hearing format

The hearing was then conducted under the following format:

- Welcome and introduction by the Chair including an explanation of the land classification system under the *Local Government Act 1993*
- Overview of the context of the reclassification by Joe Gaudiosi

- Overview of the planning proposal by Cinnamon Dunsford
- Oral submissions by registered speakers
- Overview of next steps by the Chair
- Questions
- Close of hearing

As part of the welcome and introduction, the Chair identified the need for, and purpose of, the hearing. The Chair noted her independent role and introduced Locale Consulting and Council staff present at the hearing. After the Chief Operating Officer provided the context for the reclassification, Cinnamon Dunsford then provided an overview of the planning proposal. A copy of the presentation from the hearing is provided in Appendix B.

The Chair then called upon registered speakers to make their oral submissions. After the oral submissions, the Chair concluded the hearing by thanking the speakers and attendees, and by providing an overview of the next steps. A number of questions were asked at the end of the hearing which are documented below.

The hearing formally closed at 7.42pm.

3.5 Questions

Before the close of the hearing, the following questions were asked:

Question	Response
Must Council make the public hearing report available?	Answered by the Chair. Yes, it must make the report available and usually, this is done via Council's website.
Will the submissions made by councillors be taken into account or excluded due to a conflict of interest?	Taken on notice and to be addressed by Council staff.
Is it correct that Council will be proceeding with the reclassification?	Answered by Chair. No. There is no pre-determined outcome.
How will this decision be made? And who will make it?	Answered by the Chair. Locale will provide its report to Council staff and Council staff will respond to any matters identified in the report. Council staff will then prepare a report for consideration by the elected Council. The elected Council will make the final decision.
Why was there an apology from the CEO, when I saw her walk past outside?	Answered by the Chair and Director, Planning & Environmental Services. The CEO is not physically in the building and is an apology as was noted at the start of the hearing.



4. Attendees and submissions

4.1 Summary of attendees and submissions at the hearing

A total of 34 community members attended the hearing including the State Member for Kiama, Gareth Ward in addition to five Council staff and three councillors.

16 people made an oral submission during the hearing. A summary of each oral submission is contained in Appendix C. It is noted that nine of the speakers also made a written submission during the exhibition of the planning proposal.

The majority of speakers were opposed to the reclassification, with diverse reasons provided for this opposition. One submission was in favour of the reclassification, with five requesting that Barroul House and its surrounds be excised from the reclassification.

A summary of the key themes raised during the hearing is provided below. These included objections to the reasons for the proposed reclassifications, concerns about the decision-making process to date and inadequacies in the planning proposal.

4.2 Reasons for reclassification

As noted earlier, the planning proposal set out three reasons for the proposed reclassification. Many people submitted that these reasons do not 'stack up'.

4.2.1 Lawfulness of current operations

The planning proposal stated that:

Council has identified the need to reclassify the public land of the Blue Haven Bonaira site from community land to operational land to ensure it is being operated in accordance with the Local Government Act.

A number of speakers questioned whether it is necessary to reclassify the land in order for operations to lawfully continue on the site. Several speakers submitted that the current classification was appropriate for the land as it reflects its history and intended use. It was requested that Council publicly release the legal advice that it has relied upon to conclude that it must reclassify the land to ensure operations are legal.

4.2.2 History of community & public use of the site

The planning proposal stated that:

Following Council's acquisition of the subject land, it should have been classified as operational land within three months, however, given this was not done due to an oversight at the time, the land was given community land status by default. The status of this site as community land is not appropriate for the current use of the land for seniors housing.

Many speakers disagreed with the statement the current classification was an anomaly and due to an administrative oversight. Speakers cited the historic public use of the land, the ongoing community use of the land, the conditions attached to the acquisition and the involvement of the State and Federal government in the restoration of Barroul House as reasons why the current classification was not an anomaly.

Others referred to Council's long-term focus on aged care and Council's intention to redevelop the site to retain community use.

A number of people submitted that given the historical and heritage significance of Barroul House and its surrounds, it should be excised from the reclassification process. Many speakers noted that the community had fought to retain this property in public ownership, and it had been restored with government funding with the intent for ongoing use. Others expressed concern that reclassification and sale would prevent public access to Barroul House and its surrounds.

4.2.3 Desire for public ownership and public access

The planning proposal noted that *"following consideration of Council's urgent need to improve cash flow to demonstrate "ongoing concern" status and improve the long-term financial position of Council"*, it resolved to sell the land. In order to sell the land, it must be classified as operational.

Many speakers were opposed to reclassifying the land in order to sell it as a means of addressing Council's current financial issues and several speakers questioned the overall public benefit from the proposed sale.

Some felt the land does not need to be sold to resolve Council's financial issues and that it is a short-term fix which is contrary to Council's long-term involvement in the aged care space.

Others felt that Council had not properly explored all options for the site (including consideration of the social value) and that continued public ownership and/or access to and through the site was a more desirable option or outcome than privatisation.

Others submitted that Council has been a pioneer in aged care services and there were benefits in community owned social services that have not been properly taken into account.

4.3 Decision making processes

Many people raised concerns about the decision making process to date and expressed concern that Council had pre-determined the outcome. There were three main elements to these concerns.

4.3.1 Pre-determined outcome

A number of speakers raised concerns about the lawfulness of Council resolving to sell the land before the reclassification process had been completed. Concerns were raised that this

amounted to apprehended bias in Council's decision making (i.e. with the resolution to sell the site being made before the reclassification was finalised).

4.3.2 Insufficient consultation and communication about the sale

A number of speakers raised concerns that there has been insufficient consultation with the community about the proposed sale of the land and associated facilities. It was felt that the public hearing process was simply a 'tick the box' exercise and not a genuine engagement process, and Council had not followed its Community Participation Plan.

4.3.3 Lack of transparency about key information

Many speakers raised concerns about the lack of transparency and sharing of information, particularly with respect to Council's financial position and the basis and justification for reclassifying and selling the land, along with the potential implications of this. It was noted that many decisions have been made in confidential meetings which has made it difficult for the community to understand the rationale for Council's decisions and Council has not corrected information on its website nor made available information that it had promised to the community.

4.4 Deficiencies in the planning proposal

A number of speakers raised concerns about the content of the planning proposal and in particular, drew attention to its deficiencies.

4.4.1 Inadequacy of documents referenced

Some speakers noted inadequacies in the planning proposal documentation and in particular, references to specific strategies or plans. It was felt that the planning proposal made erroneous statements.

4.4.2 Insufficient consideration of the history of the site

Some speakers submitted that the planning proposal did not adequately address the history of the site. This included the:

- historic public use of the land and long-term association of the site with local health care
- conditions, restrictions and funding attached to the acquisition and development of the land, specifically in relation to Matterson Hall and Barroul House
- government commitment to providing aged care

4.4.3 Insufficient consideration of broader impacts

Some speakers submitted that the planning proposal didn't adequately address the social impacts of the aged care services becoming privatised and the social and cultural values associated with the long held public asset.



4.4.4 Insufficient consideration of loss of public access

Some speakers submitted that the planning proposal didn't adequately address the loss of public open space, linkages to other public open space and the overall deep community connections to public open space - that help physical and mental well-being along with creating social value.

4.4.5 Uncertainty about Council considering all interests in the land

Some speakers submitted that the planning proposal did not adequately address whether Council had properly considered all interests in the land, including funding agreements, land title requirements, registered dealings and the interest of residents of the Independent Living Units.

4.5 Summary of written submissions during exhibition period

As noted earlier, Council received 21 submissions during the exhibition period with Council advising that the submission from the Mayor was subsequently withdrawn. These submissions were reviewed in advance of the hearing. The key themes arising from the submissions are set out below with a detailed summary of each submission contained in Appendix D.

The majority of submissions were opposed to the reclassification, with diverse reasons provided for this opposition. Three submissions were in favour of the reclassification, with four expressly requesting that Barroul House and its surrounds be excised from the reclassification.

The written submissions raised very similar points to the oral submissions made at the hearing. These can be broadly summarised as follows:

- Reason for reclassification is incorrect or is not justified
- Lack of transparency and communication with the public, both in relation to the process and decision making
- Heritage significance of Barroul House and requirements of funding agreements
- History of land use and its acquisition and development
- Concern about interests in the land and the legality of decisions relating to the proposed sale
- Concern about deficiencies in the planning proposal document

5. Conclusion

It is appreciated that the planning proposal and its context is complex and is seen by many in the community as a very significant decision for Council. The public hearing and public exhibition process raised a number of community concerns about the proposed reclassification of the land and the future sale of the site and associated aged care facilities. There were three key elements to these concerns:

- Reasons – the reasons for the reclassification do not ‘stack up’ when viewed against the history of the land and Council’s vision for the site when it was acquired and developed.
- Process - there have been legal and procedural issues with Council’s decision making processes to date.
- Proposal – there are deficiencies in the planning proposal documentation and the justifications for the reclassification.

There were also a small number of submissions in favour of the reclassification.

Key questions that have been raised from the community’s perspective that have a direct relationship to the planning proposal include:

1. Can Council lawfully operate the existing facility (including the residential aged care facility and independent living units) on community land with a plan of management in place that enables leasing for specified uses? If not, why?
2. Can Barroul House and its curtilage be excised from the proposed reclassification? If not, why?
3. How will the proposed sale of the land and associated facility impact Council’s financial position (short and long-term)? What additional information, if any, can Council make available to the community to explain the financial implications for the potential sale and the other options it may have considered?
4. Has Council acted unlawfully by resolving to sell the land before the reclassification process had commenced and was complete? If not, why?
5. Has Council fully considered all interests, conditions, agreements and restrictions in the land, in particular:
 - the interests of the residents of the independent living units?
 - the restriction of use on the title?
 - any conditions in funding agreements for the restoration of Barroul House?

It is likely that community interest in Council’s ongoing decisions about the proposed reclassification and the future of Blue Haven Bonaira will continue. The provision of information regarding the above questions may assist in responding to community concerns and will need to be given consideration in furthering the reclassification process.

In accordance with legislative requirements, Council must make a copy of this report available to the community as part of its decision-making on whether to proceed with the reclassification.

Appendix A: Guidelines for speakers



Guidelines for attendees and speakers

Public Hearing – Kiama Municipal Council

Reclassification of Blue Haven Bonaira
14A Bonaira Street, Kiama - Lot 2 DP1215276

Introduction

Thank you for registering to speak at the public hearing about the proposed reclassification of the above land.

Council must hold a public hearing so that the community's views can be heard about the proposal to reclassify the land from community to operational.

The hearing is being chaired by an independent person, Emma Broomfield of Locale Consulting. Emma will be assisted by Cinnamon Dunsford also of Locale Consulting.

You will need to register with Council to make a submission at the hearing.

Please follow these guidelines to participate.

Guidelines for speaking at the hearing

So that the hearing runs smoothly, the following guidelines have been set by the Chair for those wishing to speak at the hearing:

- o You should state your interest in the proposal and where you live in relation to the site
- o You should state whether you are speaking in a personal capacity or as a representative of a broader group or person
- o You should state whether you have already made a written submission on the planning proposal
- o Where you agree with a previous speaker on a point, you should state this rather than repeat the same point
- o You must refrain from making offensive, threatening or defamatory comments
- o You will have 5 minutes to share your views about the proposal
- o You will be given a warning bell at the 4 minute mark, with a final bell given at 5 minutes

Where possible, a full copy of the speech/presentation made by you at the public hearing should be given to the Chair after the hearing, for record purposes. This can also be emailed to emma@localeconsulting.com.au

Other guidelines for the hearing

The general running of the public hearing will be within the discretion of the Chair including to:

- o Stop a person from speaking if he or she is making offensive, threatening or defamatory statements including muting you
- o Request a person to cease being disruptive to the hearing process

- o Remove a person from the hearing should they not follow a direction or request from the Chair
- o Permit the substitution of speakers
- o Grant additional time for a speaker or a late application to speak



Chair

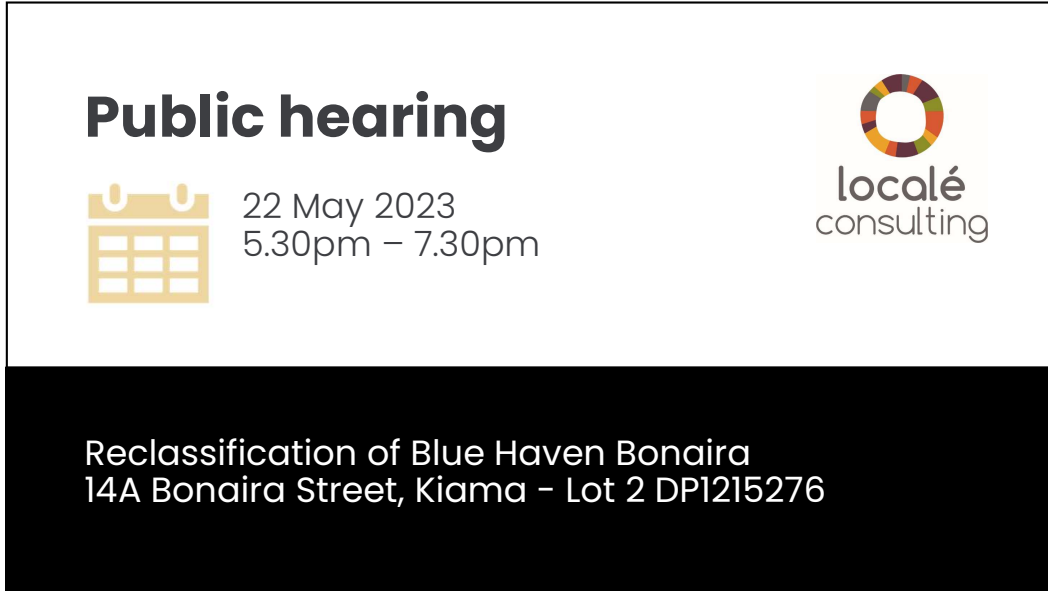
**Emma Broomfield
Director - Locale Consulting**




Appendix B: Public hearing presentation




1/06/2023



Public hearing

 22 May 2023
5.30pm – 7.30pm



Reclassification of Blue Haven Bonaira
14A Bonaira Street, Kiama – Lot 2 DP1215276

1



**Welcome and
introduction**

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1/06/2023

Chair & facilitator




Emma Broomfield



Cinnamon Dunsford

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Hearing outline



- Reason for hearing
- Purpose of hearing
- Classification of public land
- Context
- Planning proposal
- Submissions
- Next steps

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Reason




Where Council proposes to reclassify public land, it has a **statutory obligation** to arrange a public hearing before making a decision

Section 29(1) of the Local Government Act 1993

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Purpose



The hearing is an **independent process** to hear and capture any community views about the proposed reclassification.

This helps inform Council's decision.

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Public land



All land in or under the control of Council is called 'public land'. It must be classified as either:

Community	Operational
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The controls that apply to 'community' land are different to those for 'operational' land.

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Community

This is set aside for community use (e.g. parks & sportsgrounds). Its development and use is subject to **strict controls**:

- It cannot be sold
- It must have a plan of management
- There are restrictions on leasing and licensing

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Operational

This serves a commercial or operational function (e.g. offices, works depot, car park, sewage pump station, drainage reserves).

It has **no special restrictions** other than those that may ordinarily apply to any parcel of land.

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Process

A **planning proposal** is a legal mechanism local councils use to reclassify land.

The slide features a decorative footer with a row of colored squares in shades of green, orange, and grey. A small orange icon of a square with a line and a circle is positioned to the left of the text.

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The Site

The slide has a dark grey background with the title 'The Site' in white text. It includes the same decorative footer of colored squares as the previous slide.

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Facility

- 134 aged care beds
- 59 independent living units




The image shows a modern, multi-story residential building with a mix of brick and stone cladding. In the foreground, there is a stone wall with the words 'BLUE HAVEN' and 'KIAMA' engraved on it. A paved walkway leads towards the building, and a few people can be seen walking. The sky is overcast.

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Facility

- Barroul House
- Matterson House



The image shows a single-story house with a white facade and a dark roof. It has a covered porch with white columns. In front of the house is a brick-paved area with some greenery. The sky is clear and blue.

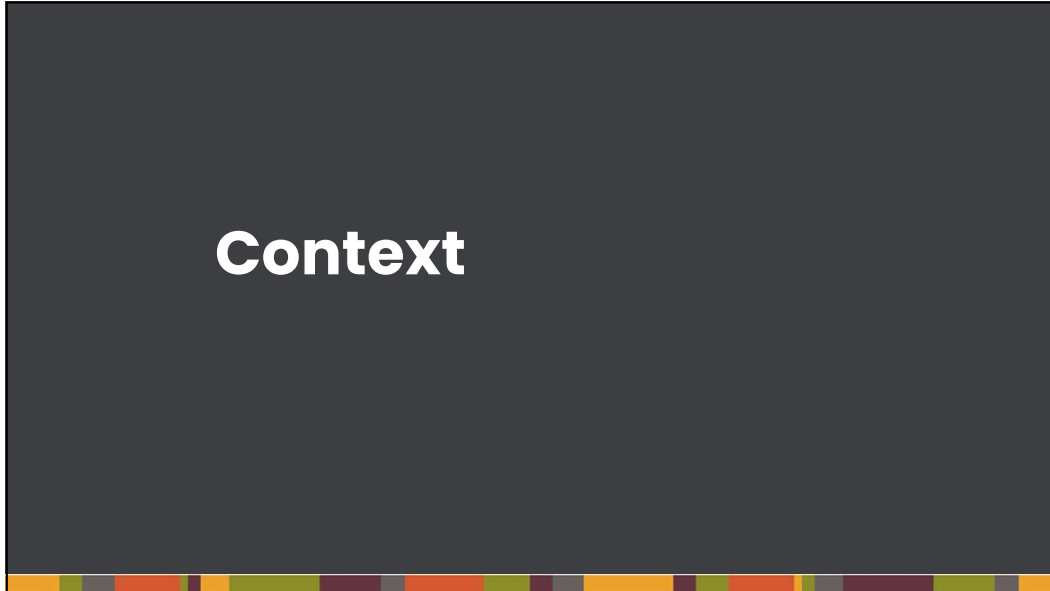
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Scale of Operations

- 24 hour federal residential aged care facility (RACF) home- high care/low care
- Federal aged Home Care – in home care packages + commonwealth home support
- Independent living
- Café Operations
- Community transport
- Blue Haven 138 staff employed

Strategic choices for a sustainable future

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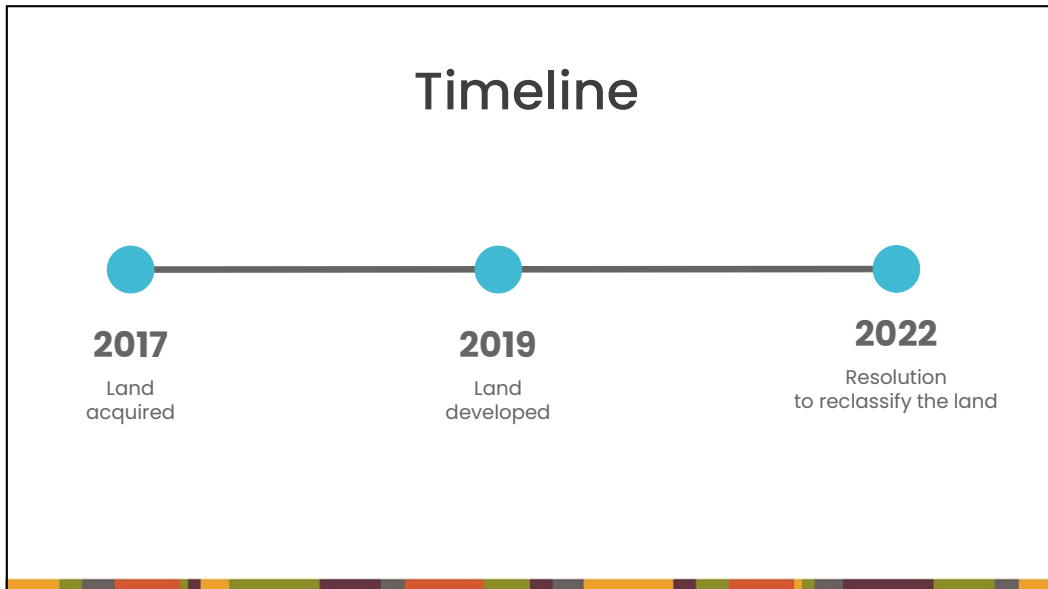


Scale of Operations

- Funding
 - Federal RACF \$8M
 - Resident fees RACF \$4M
 - Home Care Federal Funding \$2.8M
 - Home Support Commonwealth \$1.2M
- Wages
 - RACF \$9M
 - Community \$3.2M
 - Agency Staff \$1.8M and \$300k
- Liabilities
 - ILU Resident accommodation payments \$44M
 - RACF \$31M

Strategic choices for a sustainable future

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Broader Context

- Performance Improvement Order
- Strategic Improvement Plan 1 and 2
- Audit Office Going Concern
- Current Long Term Financial Plan and Asset Divestment Strategy
- Restore the Balance Sheet

Strategic choices for a sustainable future

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Broader Context

- The reclassification will not impact the services provided in the facility
- The heritage zoning over Barroul house will also remain in place
- Any sale is subject to the outcome of the reclassification process
- Council has resolved for any sale to be to another Aged Care Provider
- Security of tenure governed by the aged care act

Strategic choices for a sustainable future

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Zoning controls

- The land is currently zoned R2 low density residential under the Kiama Local Environmental Plan 2011
- The planning proposal does not propose changes to the zoning controls

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Reason for reclassification

The planning proposal states that there are three key reasons the land is now being reclassified:

- The status of the land as community is not considered appropriate for its current use
- The land should have been classified as operational land within 3 months of acquisition
- Council must change the classification in order to sell the land

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Use of the sale proceeds

- The planning proposal states that Council will allocate the sale proceeds to its Land Development Reserve
- Primarily Council has outlined that any proceeds would be used for repayment of debt (TCORP) and to restore liquidity
- Any determination of use of funds would be subject to a Council resolution


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Oral submissions


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Guidelines



5 minutes
per speaker

- State your interest in the proposal and where you live in relation to the site
- State whether you are speaking in a personal capacity or as a representative of a broader group or person
- Confirm if you have already made a written submission on the planning proposal
- If you agree with a previous speaker on a point, please state this rather than repeat the same point
- Refrain from making offensive, threatening or defamatory comments

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Next steps

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Next steps

Written report on hearing

Council will:

- make the report available to the public
- assess the submissions
- make a decision whether to proceed

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localé consulting

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E info@localeconsulting.com.au / W www.localeconsulting.com.au / ABN 73 140 973 735

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Appendix C: Public hearing speaker summaries



Table 1 Speaker summaries for the public hearing

Speaker # & Name	Notes
#1 Sue Eggins (President Kiama Historical Society)	<ul style="list-style-type: none"> o Speaking on behalf of the Kiama Historical Society. o Made a written submission on the planning proposal. o Should excise Barroul House and curtilage from the reclassification. o It was a public building from day one. o The restoration of the building was funded by the Government – Anne Sudmalis announced \$1.4 million for the restoration and stated she wanted the building to be for the community. o The Society fought for 25 years for the restoration of the building, writing to all Ministers and politicians. o The Society was told they couldn't access the building due to safety and use, but then when the old hospital closed 2,000 people went through Barroul House (the Society showed them through). o Thanked Gareth Ward for the restoration of the building and noted it is an important house in town and should remain a community building for everyone. o If the site is sold would like a caveat that it can remain accessible to the public.
#2 George Puris	<ul style="list-style-type: none"> o This is the only public meeting he has spoken at. o He has been a patient advocate and ratepayer since 1974 and is a doctor. o He has been in the area for 50 years and wants the beds to stay within the health zone. o The site was opened by State, Federal and local government and the public was told it was public land. o Covid came and this has impacted aged care and the ability of the Council to balance its books. o He showed some records and a United Services Union petition and stated he had provided those to Council. o The petition was signed by so many who do not want aged care to have to move out of the area. o The uniform all staff wear shows Blue Haven and Council logo – it is public. o The land must remain public. o Three years of Covid should be backdated to give the time for public money to balance the books – there were no deaths during Covid here showing the service does a good job. <p><i>Provided printed copies of photos from the site, an article from Kiama Independent newspaper, an extract from the petition plus forwarded additional information by way of email after the hearing.</i></p>



Table 1 Speaker summaries for the public hearing	
Speaker # & Name	Notes
#3 Sandra McCarthy	<ul style="list-style-type: none"> ○ Former Mayor with a professional & personal interest in the matter. ○ Made a written submission on the planning proposal. ○ Has lived at Werri Beach for 45 years. ○ Opposed to the reclassification. ○ She was the Mayor in 2011 when Council was offered the land cheaply so community aged care didn't pull out of the area. ○ Notation on the land title says the aged care facility must operate on the site until 2027. ○ There was no direction from State government to reclassify the land as operational as a condition of the sale. ○ Blue Haven report from 2011-2012 refers to a State & local government partnership with grant funding. ○ Disappointed that Council has already resolved to sell the land before the outcome of the reclassification process. This has negatively impacted the process. ○ Reclassification is not needed as the facility can operate as is on community land. ○ 'General community use' land category would be fine. ○ This facility is needed for the ageing population. ○ Use of part of the land as a publicly owned retirement village including as a nursing home and independent living does not provide for a registered interest in the land. ○ Agreed with earlier speak (Sue Higgins) about Barroul House. ○ The way Matterson House was created should have meant ongoing community land. ○ This proposal is contrary to State and Federal funding. ○ Large amount of the site is open space with public access to the Bonaira Gardens Reserve at the rear of the site. <p><i>Provided a printed copy of the speech including the notation on the land title being a restriction as to use registered on the title at the time of acquisition.</i></p>
#4 Howard H Jones	<ul style="list-style-type: none"> ○ Was on Council 30 years ago. ○ Made a written submission on the planning proposal. ○ This is the biggest decision Council will make in its history – both financial and social. ○ Council intends to sell significant social services and it will be privatised. ○ There is no need to reclassify Barroul House or the nursing home – meets the definition of community land. ○ Employs 50% of Council's workforce.



Table 1 Speaker summaries for the public hearing

Speaker # & Name	Notes
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- Does community ownership of Blue Haven matter? This question hasn't been sufficiently answered and community ownership has a value that hasn't been considered. It would ensure a focus on outcomes and not profit. Public ownership brings certainty, trust and accountability.
- Private enterprise doesn't have a social obligation – this would be catastrophic for the ageing community.
- It is not true that “nothing will really change”. It cannot be guaranteed and its deceptive to say.
- Council's response to this public meeting has been made so this is just a tick-the-box exercise.
- Council has already pre-determined the issue by resolving to sell the site.
- This is an example of apprehended bias and this has legal ramifications under the Local Government Act.
- Some councillors also told they can't make submissions.
- Does it matter that Council isn't listening and the horse has bolted?
- Not consistent with Council's Community Participation Plan – there was no early consultation and decisions made in confidential meetings.
- Council has not fully explored other alternatives to selling.
- Blue Haven has been the most important core business for Council for nearly 50 years. This viewpoint has changed with current Council leadership.

Provided a printed copy of the speech.

- | | |
|--|---|
| <p>#5
John Ernest
(was absent so his oral submission was read by John Greer)</p> | <ul style="list-style-type: none"> ○ Long-term resident. ○ Totally in support of the reclassification. ○ Council shouldn't be involved in a specialist business operation like aged care. ○ Council hasn't carried out the function in the best interest of ratepayers. ○ Construction costs for the facility blew out by almost 50 (\$58million to \$106 million) ○ The fact Council didn't make it operational is an indicator of the Council not understanding the aged care business. ○ Council doesn't have to report on the facility as per other Council operations – they have not predicted replacement costs of beds and equipment in future budgeting. ○ Barroul House should be included in the sale but the contract could address heritage and public significance and use by residents. ○ Blue Haven is part of the reason Council is in financial trouble. |
|--|---|

Provided a printed copy of the speech.



Table 1 Speaker summaries for the public hearing	
Speaker # & Name	Notes
#6 Noel Edgell	<ul style="list-style-type: none"> o Lives 500m from the site. o Made a written submission on the planning proposal. o Was Director of Engineering at Council, and has been a Rotary member and member of the Kiama Show Society – so he is acutely aware of local passion for community services and heritage. o Long-term resident of area (36 years). o He provided a historic timeline of the site and specifically Barroul House. o Kiama Hospital was feted to close then the State Government provided \$8million for the redevelopment and without a tender process the land was acquired by Council. o The Kendall name has a strong association with Kiama’s history (beach, street names etc) and the site was Kiama’s hospital for 90 years with many residents born there and passed away there. o The site has so much significance and this reclassification does not correct an “anomaly”. o It was developed as an aged care facility with a condition of sale from the State Government that it be used for this purpose. o Both State and Federal government contributed to refurbishment of Barroul House and Matterson Centre on condition they were to be used for the community. o He shared some site images. o Part 2 of the Local Government Act states what “community land “is and this is just that. o Must remain as community land. <p><i>Provided a printed copy of the speech and a photograph of Barroul House and signage about its history.</i></p>
#7 Peter Maywald	<ul style="list-style-type: none"> o Opposes the reclassification. o Speaks as an individual. o Made a written submission on the planning proposal. o One of the first residents to move into the independent living units in the facility and helps maintain the gardens. o Community members/residents spend their own time and money maintaining the grounds because they live in a community. o Many residents are community volunteers within the facility and outside of the facility as part of the overall community. o The facility is not operational as it forms part of a public integrated program – that’s why he chose to live there. o Provides access to native gardens and beyond. There is safe access to the beach beyond the garden, as street access is steep.



Table 1	Speaker summaries for the public hearing
Speaker # & Name	Notes
	<ul style="list-style-type: none"> o Most residents have a major part of their money in the facility. \$40million with the Council and a further payment of \$229/fortnight from residents. o Should follow the principles in the Local Government Act when making the decision. o The current classification as community is appropriate. Its current classification is not simply a minor administrative oversight. o Caring for community is Council's core responsibility. o Council didn't see a need to reclassify until financial pressure was felt. o We have a values-driven community and Council can look at other options to fix their financial problems. o Council is turning its back on 40 years as a pioneer in aged care. <p><i>Provided a printed copy of the speech.</i></p>
#8 Alan Woodward	<ul style="list-style-type: none"> o Is an office bearer with Central Precinct Committee. o Made a written submission on the planning proposal. o Council should excise Barroul House and surrounding parklands from the reclassification. o This land is not required for the aged care operations. o A simple survey and subdivision are all that is needed to do this. o The social, cultural and economic impact of decades of community association with the original Kiama Hospital would be so negative if it is included in the sale. o Rooms in Barroul House were renovated for community use with public money and donations. o The community connection with the site was a key driver in retaining it within public ownership, with the transfer only a few years ago. o Café is a drawcard for the community to meet on the site. o Connections with public open space (like the parklands at the front of the site) are helping our wellbeing and mental health and have a strong social and economic value - as stated in the NSW Government in its Open Space Strategy and website. Why put this at risk? o Barroul House and the surrounds is highly valuable to the community. o Substantial heritage value will be impacted and potentially lost. o The planning proposal is inaccurate and incomplete – includes land and assets that aren't required for the operation of the facility, and also fails to properly consider the social, economic and cultural impacts of losing the right to use this accessible public space. <p><i>Emailed a copy of his speech after the hearing.</i></p>



Table 1 Speaker summaries for the public hearing	
Speaker # & Name	Notes
#9 John Greer	<ul style="list-style-type: none"> o Kiama resident for 15 years. o Member of many community groups but speaking as an individual tonight. o Thanked some previous speakers. o Asked that Barroul House and gardens be excluded from the reclassification. o The historic significance of Barroul House is on par with the memorial arch, post office and old Council Chambers. o So well maintained and in good condition. o Has heard of conditions that said Barroul House couldn't be sold for 5 years and now that time is almost up it is not a good look or message to send to prepare for its sale. o Not State heritage listed so concerned that local heritage listing won't offer good protection. o If on sold with its R2 zoning future owners may put forward other land use options. o This land was supposed to be kept by Council – not an anomaly. o Caveats won't help the building – duty to keep in Council's ownership. o The community should have been asked expressly about the ownership of Barroul House before the reclassification process (e.g. poll, survey or referendum) o Subdividing this building off won't impact Council's bottom line. o Kendall family of State and Federal significance. <p><i>Provided a copy of supporting materials relating to the historical significance of the site and the Kendall family.</i></p>
#10 Howard R Jones	<ul style="list-style-type: none"> o Speaking as an individual (previously a councillor). o Made a written submission on the planning proposal. o Interested in the process. o This is a significant act that the Council is making as reclassification of land can't be reversed easily. o Council has a moral duty to bring the community along with this and they are failing in their moral duty. o A number of questions that have not been answered: <ul style="list-style-type: none"> o Is there a public benefit? o Where is the independent cost/benefit analysis? o Is there an ideological bias? o How has the loss of social capital been factored into the decision? o Too much information remains confidential – even though Council did say they would make more information public, such as the Executive



Table 1	Speaker summaries for the public hearing
Speaker # & Name	Notes
	<p>Summary of Council report on financial status. They have not made it public.</p> <ul style="list-style-type: none"> ○ Uncertainty has provided an opportunity for people wanting to push the Council to get out of the aged care game. But Royal Commission into aged care stated NFPs operate better aged care facilities. ○ Community classification of land was not an error. Evidence suggests that it was retained on purpose due to Barroul House. ○ No legal advice has been provided as to why the reclassification has to occur to make the operations legal. ○ If sale was always the intent why not just tell the community that? ○ The purpose and intent of all resolutions of Council should be made clear to the public. ○ It is not clear that that Council's financial issues is due to the recent construction of the Bonaira facility. ○ Recent Council reports refer to financial data that is lost or doesn't exist. Financial information needs to be made public. ○ Other options have not been explored. ○ Needs to more transparency in the decision-making. ○ Not convinced that the planning proposal is sound or justified. <p><i>Provided a printed copy of the speech.</i></p>
<p>#11 Alan Holder</p>	<ul style="list-style-type: none"> ○ A resident of Blue Haven Terralong and part of a loose group known as Save Blue Haven Action Group. ○ This move by Council is for a new owner to potentially own the site freehold. ○ Conservatively the land value is \$50m and the cost of construction was \$104m so the value is approx. \$150-\$160m – but Council says they'll get \$85m. This is an appalling deal for ratepayers and developers will think they have it all over us. ○ Stuart Brown Advisory report says Council should get out of the aged care game but this represents a conflict of interest and Council staff shouldn't deny this point. ○ Sighted the analogy of selling your home for 50% of its value just because it has a few minor problems such as gutters and plumbing. ○ Council should be more competent and fix the problem, and not take the easy, lazy option in this case. <p><i>Emailed a copy of his speech after the hearing.</i></p>



Table 1 Speaker summaries for the public hearing	
Speaker # & Name	Notes
#12 Boni Maywald	<ul style="list-style-type: none"> ○ Thanked other speakers and Locale. ○ Speaking as individual. ○ Didn't make a written submission to the planning proposal. ○ One of the first residents to move into the independent living units on 10 December 2019. Residents saved the gardens from the bushfires then and have saved the gardens many times since. She helped new residents that moved in during Covid. ○ Deep respect for and acknowledges the traditional owners. ○ Has a 70-year association with Kiama and moved here after 2010 when Council declared a commitment to aged care and retirement living. ○ Involved in a 3-way MoU between Alzheimer's Aust, Wollongong Uni and Council – which made Kiama the first dementia-friendly town. ○ Deeply involved in community groups and believes they should pass on knowledge about cultural history. ○ Shouldn't sell off the site in a fire sale to private interests ○ Barroul House should remain in public ownership and for community use. ○ Asked for secured gate in the back fence and this adds to the community focus as people walk through and stop to talk. ○ If Barroul House is sold it won't remain available for public use, like Thirroul House. ○ Has felt intimidated by Council when they ask questions about this proposal. ○ Other options need to be explored (e.g. leasing the residential aged care facility and excising Barroul House and surrounds) <p><i>Provided a printed copy of speech and a book about 40 years of Blue Haven.</i></p>
#13 Warren Holder	<ul style="list-style-type: none"> ○ Has lived in LGA since 1975 – last 30 years in Gerroa. ○ Speaking as an individual. ○ Opposed to the reclassification. ○ If you believe something is wrong, then you should fight it. ○ At the time of the purchase of the site, the Mayor and General Manager were well informed and they consulted widely so the community was informed and so they knew what the community wanted. ○ Mayor Reilly spoke out and said Council needed to sell Blue Haven Bonaira without talking to the community about it. But now the community is being consulted after Council has decided to sell the land. ○ This meeting is just about ticking boxes. Consultation is only about the reclassification and not the sale.



Table 1	Speaker summaries for the public hearing
Speaker # & Name	Notes
	<ul style="list-style-type: none"> o Blue Haven Terralong has always been a great money-making exercise and has a positive social impact. o He knows how past councillors would have voted – they’d be upset and opposed to this. o The site has been at the community’s heart for some time. o A little Council deserves more than the three Rs and deserves some creativity – that’s why the community fought the amalgamation. o Another option to address the financial problem is this: o Spread \$14million across 20,000 residents at \$700/ year or \$13.46/ week which is 3 cups of coffee per week across 12 months. o But are the figures wrong, or right? Is it \$14million – is Council misconveying the financials? o This proposal is a knee-jerk reaction with information being drip-fed into the community. <p><i>Emailed a copy of his speech after the hearing.</i></p>
#14 Peter Meaney	<ul style="list-style-type: none"> o Speaking as an individual. o Made a written submission on the planning proposal. o Blue Haven is an important asset for community (jobs and financial subsidy until recently). Blue Haven Terralong makes a profit. o Selling Bonaira according to some councillors will be a short-term fix only. o Three miscommunications on this proposal. o 30 May 2022 – The Bugle interview about missing millions reported an amount of \$122million. No further claims have been this high. o Then a \$17million shortfall was stated by Council. This was questioned by Clr Rice but not accepted by Council staff, then eventually this amount was dropped to \$5million in Dec 2022 business paper. o June 2022 – report said the Blue Haven Bonaira complex was operating illegally. No proof shown to the public. o May/April 2022 – council directed the General Manager to produce options for Blue Haven. Wonders if the detailed papers as requested by Councillors were ever produced by staff. o There has been a shaping of public opinion based on misinformation. o Have there been any changes considered to help improve the operations at the facility? o Have there been any discussions with State and Federal politicians to seek assistance? Not that he is aware of.



Table 1 Speaker summaries for the public hearing	
Speaker # & Name	Notes
	<ul style="list-style-type: none"> ○ The Blue Haven Board had a mass resignation and so now the place is run by Council staff who aren't equipped to run it. Concerns are reflected by Office of Local Government intervention. ○ And what about the other interests that could prevent the reclassification. What about easements? What about the independent living units that represent a \$98million interest in the land? Thinks this must be an interest. The community is legally and morally entitled to legal advice on this. ○ Agrees with the apprehended bias comments made by other speakers. <p><i>Provided a printed copy of the speech.</i></p>
#15 Debra Moore	<ul style="list-style-type: none"> ○ Made a written submission on the planning proposal ○ Disagrees with the proposal, stating it is flawed. ○ 28 June 2022 – Council resolved to spend money on the planning proposal. Asked questions at the time that remain unanswered. ○ The need to reclassify the land was a false statement and this was the basis for the Council resolution in June 2022. ○ Proposal makes it clear that the purpose of the reclassification is to sell the land. ○ The proposal contains statements that are wrong: <ul style="list-style-type: none"> – Historical land status anomaly – References to urban infill and Kiama Urban Strategy – Community access comments – Lack of information about Barroul House being public and residential access to each other (works in reverse) – States there is no social impact but there is. ○ Section 31(2) of the Local Government Act states that Council “may” reclassify land but they don't have to. ○ Department of Planning has been misled by the planning proposal content. ○ Despite her requests for a Plan of Management (including to Office of Local Government), one has never been prepared, because Council always intended to sell it off. ○ Council has not corrected information regarding the unfunded portion of the development (should be \$5.8m not \$17m as referred to on its website) ○ Council has not been transparent about the inclusion of home care packages in the sale



Table 1 Speaker summaries for the public hearing	
Speaker # & Name	Notes
	<i>Provided a printed copy of the speech plus other information including correspondence to and from Council</i>
#16 – Rudi Oppitz (United Services Union)	<ul style="list-style-type: none"> ○ United Services Union (USU) represents local government across NSW. ○ Made a written submission on the planning proposal. ○ 100 employees of Blue Haven are members of USU, so the USU has an interest in Blue Haven. ○ Believes Council is in breach of the Local Government Act as they shouldn't predetermine the outcome (being the sale) prior to the reclassification being finalised. ○ This proposal will impact job security for home care workers, community transport drivers and staff at the facility. ○ Council survived the amalgamation based on Council's assets. Selling off half of the Council's assets has not been justified. ○ Has no comfort that Council will generate substitute incomes once Bonaira and Terralong are both sold.



Appendix D: Submission summaries



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
#1 Karen Renkema-Lang Councillor – Kiama Municipal Council	<ul style="list-style-type: none"> ○ Opposed to the reclassification ○ Believes that Council will be neglecting its responsibilities and will be acting contrary to the principles of local government in section 8A of the <i>Local Government Act 1993</i> ○ Blue Haven Bonaira is a centre of excellence and is the result of a century of community passion, commitment & generosity ○ The build of the original Blue Haven facility was conceived during the early 1970s when Council was in a similar financial situation ○ In 2014 Council made the commitment to purchase Barroul House as part of the project and care for this on behalf of the community ○ Ongoing community access cannot be guaranteed under the proposal and sale will compromise the ability of the public to access existing curtilage, Barroul House and walkway to Bonaira Garden ○ Council has not assessed the sale of the site in the context of other options and there are other options that need to be examined in order to properly inform the decision to sell ○ Need to understand the loss opportunities and extent of loss revenue ○ Have not been presented with financial data that demonstrates the sale will address the long-term structural issues with Council's financial position ○ Questions whether the land needs to be reclassified in order to operate an aged care facility. Considers the classification of community to appropriate.
#2 Kathy Rice Councillor – Kiama Municipal Council	<ul style="list-style-type: none"> ○ Opposed to the reclassification ○ Council has resolved to sell the land subject to the planning proposal outcome without any broader engagement ○ The reclassification is the only way the community can engage ○ Blue Haven Bonaira was envisaged as an Aged Care Centre of Excellence and reflected Council's long term strategy around being a healthy city and aged friendly community ○ Always the intention for there to be broader community presence on the site ○ It is possible that the community land classification reflects that intention, and it was not an anomaly or oversight ○ Considers that the facility can lawfully operate on community land



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
	<ul style="list-style-type: none"> ○ The sale effectively means privatisation which will impact residents ○ The facility has been operating under capacity contrary to the restriction on title ○ Incorrect reference in the planning proposal to section 4.4.2 of the Community Strategic Plan ○ Irrelevant reference in the planning proposal that will impact housing targets in the Illawarra Shoalhaven Regional Plan ○ Nor will it maximise urban infill ○ Planning proposal fails to consider loss of public open space being the curtilage of Barroul House and walkway to Bonaira Gardens ○ There are other ways to move forward including adopting a Plan of Management and entering into appropriate leases ○ Questions whether sale will create sustainability of Council's finances ○ The proposal understates the social and economic effects of the potential sale and privatisation of the facility and potential loss of public access to Barroul House, and the significant government funding invested in the project
<p>#3 Neil Reilly Mayor – Kiama Municipal Council</p>	<ul style="list-style-type: none"> ○ Council has advised this submission was withdrawn after the close of the exhibition period.
<p>#4 Howard Jones Former councillor – Kiama Municipal Council (1995 to 2008)</p>	<ul style="list-style-type: none"> ○ Opposed to the reclassification ○ Need transparency in decision making including why reclassification is necessary and how this will impact the community's rights ○ Need to be clear about the process for reclassification and how the community can have a say ○ Need to be clear about the benefits and losses from the reclassification and if the land is sold ○ Believes the process has been mismanaged by Council ○ Council have provided different reasons at different times as to why the reclassification should occur, with no believable evidence for each case ○ Different reasons include: ○ Reclassification was needed to allow the facility to operate legally (June 2022)



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
	<ul style="list-style-type: none"> ○ The land was not classified as operational after acquisition which was an oversight (September 2022) ○ Council has resolved to sell the land due to its financial position and increasing costs ○ Former Mayor, Sandra McCarthy has stated in a letter that it was purposely left as community land based on its future use ○ At the time of acquisition, there was also a legal agreement attached to the land that it could not have its use changed for 10 years ○ The process was also undermined when recommendations were made to the elected council to give delegated authority to the General Manager to effectively sign off on the future sale in contravention of the legislation ○ There is no link between the reclassification and sale and increased housing as stated in the planning proposal ○ Reclassification and sale could result in the loss of public access to the open space that exists around Barroul House ○ Despite its promises, Council cannot guarantee continuity of service to residents ○ References report from Associate Professor Martin O'Brien, Director of Centre for Human and Social Capital Research at Wollongong University ○ Blue Haven has been referenced as the core reason behind Council's problematic financial position ○ Information has not been provided in a transparent way ○ Decision to sell the land before the reclassification issue was resolved ○ Irregularities in statements by Council about how the proceeds of the sale will be used ○ Overall, lack of confidence in the process and the reasons for the proposed reclassification
#5 Catherine Mayers	<ul style="list-style-type: none"> ○ Opposed to the reclassification ○ Former Mayor has publicly stated that during the purchase of the land from the Health Department there was full knowledge that the land was to be used for aged care and retirement living, providing for the needs of the local community and the wider public ○ This is consistent with section 36L of the Local Government Act 1993



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
	<ul style="list-style-type: none"> The only failure by Council was not providing a plan of management
#6 Peter Mayers	<ul style="list-style-type: none"> As above
#7 Form Letter signed by seven people	<ul style="list-style-type: none"> Opposed to the reclassification Land has great historical significance for past and present residents The cottage hospital was built by the community and serviced the residents of Gerringong, Kiama, Jamberoo, Albion Park, Shellharbour, Oak Flats, Primbee and many tourists When the hospital was demolished, the history was captured in the book Remembering Kiama District Hospital Hey Days Even though the original building has been demolished, Barroul House and the whole site is a special place and should be retained as community land
#8 Peter Maywald	<ul style="list-style-type: none"> Opposed to the reclassification Residents of Blue Haven Bonaira independent living unit Purchased licence because the facility was on land classified as community, is next to the Bonaira Native Garden and were led to believe Council had a proud 40-year history of support for retirement living Now Council is claiming that reclassification is merely an administrative matter in order to ensure that it is being operated in accordance with the Local Government Act 1993 But this is a false smokescreen – land is being reclassified to enable the sale Community classification is appropriate given the site is open to the public, and includes extensive gardens and recreation areas. These areas are used by residents to access the site or pass through to nearby reserves Reclassification is likely to result in reduced access for the general public via Bonaira to Barroul House and the Bonaira Native Garden, and may potentially endanger the heritage status of Barroul House and the Indigenous cultural standing of the garden Reclassification with a view to selling the land is a breach of trust and also may amount to a breach of contract by Council. Reserves right to pursue formal legal action



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
#9 Geoff Pratt	<ul style="list-style-type: none"> ○ Accepts that reclassification is necessary to address fiscal concerns but requests that Council excise a parcel of land that includes Barroul House from the proposed reclassification ○ Barroul House is one of Kiama's heritage treasures ○ It is currently open to the public and not solely used by the aged care residents (notes that there is an incorrect statement in the Planning Proposal on page 15) ○ It should remain publicly accessible ○ Inclusion of Barroul House in the proposed sale of Blue Haven Bonaira will be a disincentive to potential purchasers ○ Barroul House would be better retained on community land and then leased to a hospitality provider ○ Recent renovations to Barroul House were completed with Commonwealth grant funding
#10 Noel Edgel	<ul style="list-style-type: none"> ○ Opposed to the reclassification ○ The Gateway Determination states that reclassification is necessary to correct a historical land status anomaly to more accurately reflect the existing operational use of the site as a seniors housing facility ○ Explains the history of the land dating back to 1827, its use as the Kiama Cottage Hospital and then acquisition and redevelopment of the land by Council in 2019 ○ The land has heritage significance and should be retained as community land ○ Noted that Council also purchased land from the State Government for less than the open market value on the basis that it remains as community land in public ownership ○ Noted that Council received a substantial grant from the State Government for the construction of the Blue Haven Bonaira complex on the basis it would remain in public ownership. ○ Noted that Council also received a substantial grant for the restoration of Barroul House and Matterson Hall on the proviso that it be used for community purposes ○ Council also made the decision to sell the land before reclassifying it which is contrary to the Local Government Act 1993 and concerned the decision may be ultra vires



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
#11 Michael Newcombe	<ul style="list-style-type: none"> ○ Supports the reclassification so that the sale can go ahead
#12 Paula Newcombe	<ul style="list-style-type: none"> ○ Supports the reclassification so that the sale can go ahead
#13 Sandra McCarthy Former Mayor – Kiama Municipal Council	<ul style="list-style-type: none"> ○ Opposed to the reclassification ○ Queried if Council has operated correctly under the Local Government Act 1993 by approving the sale before undertaking the reclassification process ○ Council's statement that the community land classification is not appropriate for the current use as seniors housing is misleading and incorrect. ○ The land is used for a range of uses including as open space, children's playground, community facilities (community hall and Barroul House community centre) in addition to the nursing home and retirement village. ○ These uses are consistent with community land classification ○ The use of the land as a nursing home and independent living units does not provide a registered interest in the land ○ Council received \$1.4 million in funding from the Federal Government to restore Barroul House as a community meeting centre and café. It should remain as community land. ○ A community hall (to be used by members of the public and aged care residents) was constructed with funding support from the Commonwealth and State governments. ○ Reclassification to support sale of the land would be contrary to the funding agreements ○ These community facilities are used by members of the public and the land provides a walking connection between Bonaira Street and the Bonaira Gardens Reserve
#14 Peter Meaney	<ul style="list-style-type: none"> ○ Opposed to the reclassification unless Council can provide a legal opinion stating that reclassification is a compulsory legal requirement and that clarifies whether the residents have an interest in the site ○ Concerned that councillors are not approaching the question of reclassification with an open mind. Many councillors have made it clear that in their view the land will be sold. ○ Concerned that a comprehensive business case has not been presented and made available to the community to make an informed decision



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
	<ul style="list-style-type: none"> o Sale should be deferred and a plebiscite should be held at the next Council election or sooner, if urgent o Council has presented the view that the facility is operating illegally and this illegality must be corrected (see report in June 2022) o Land purchased from the Department of Health on 27 October 2016. There was a caveat restricting its sale for 10 years and that the aged care facility operates no less than 134 beds. This caveat was recently removed by Council to permit the sale. o New Blue Haven Bonaira facility was opened in November 2019 and on 14 February 2020 a note was added to the title of the land about a retirement village o Council's explanation that the classification of the land as community was an oversight appears unlikely and is a "red herring" o No legal opinion has been presented to the community supporting the view that the site is operating illegally as claimed in the CEO report in June 2022 and this was only presented as the reason after Council made its intention to the sell land public in May 2022 o Would like to see a legal opinion to support this stance o The reclassification will not lead to any change in available housing o The facility is currently operating at reduced capacity (about 80 beds) and it is unclear why the option to increase capacity has not been explored o Queried whether people living at the facility have an "interest" in the site and requested that Council obtain legal advice on this point o Community will lose access to the land and cafe
#15 Sue Eggins Kiama & District Historical Society	<ul style="list-style-type: none"> o Requests that Barroul House and its curtilage be excised from the reclassification o The Society has fought for 20 years to save and restore this listed building o Barroul House was always intended for community use o It was never intended to be only used for the residents of Blue Haven Bonaira o The same for Mathieson Hall, but appreciate this would be too difficult to excise out of the rest of the buildings



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Submission	Issues / Concerns Raised
#16 Stuart Geddes United Services Union	<ul style="list-style-type: none"> ○ Understands that significant portions of the land were considered to be heritage items when acquired by Council from the State Government and part of the agreement of transfer was that there would be ongoing community and public access to these heritage locations ○ This was reflected in the Federal Government funding to restore the buildings ○ This raises the concern that the reclassification of the land as community was not an oversight but was a deliberate action in the contractual agreement between Council and the State government ○ It raises a number of other questions including what consideration has been given to the heritage site and intended public access to the site, how will Council ensure this is maintained and what protections can Council provide for the heritage listing if the land is deemed operational and sold
#17 Vicki Steele	<ul style="list-style-type: none"> ○ Opposed to the reclassification ○ Acknowledges Council is attempting to recuperate funds to relieve liquidity problems ○ The facility is important to the Kiama community. ○ It is an asset in many ways and will generate future income for Council.
#18 Debra Moore	<ul style="list-style-type: none"> ○ Opposed to the reclassification ○ Planning proposal contains false information that it was an “oversight” and “historical land status anomaly” – there is no evidence to support this claim ○ Concerned that there are conflicting reasons given for why the land must be reclassified ○ CEO stated in June 2022 report to Council that the reclassification must occur for the existing aged care facility to be operated legally – this is incorrect ○ The planning proposal fails to disclose the historical ‘public land’ status of the site ○ Council has delegated authority to finalise the LEP and it is impossible for Council to act impartially given they have already announced they will be selling the land ○ Council resolved to sell the land twice in May 2022 without realising the land was classified as community



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
	<ul style="list-style-type: none"> ○ The Planning Proposal incorrectly refers to the minutes of Council meeting on 13 October ○ The sale of the land due to the financial difficulties of Council has been presented as a fait accompli ○ The public hearing is a tick-the-box exercise ○ Council should have not the delegated authority to finalise the LEP ○ There is no evidence that the residential aged care facility does not provide public access to the community – both Barroul House and Matterson Hall are accessible by the public and this is not referenced in the planning proposal ○ The “request to note retirement village” document shows only part of the site as being used as a retirement village ○ This excludes the part of the land where Barroul House is located ○ The planning proposal has also failed to address the social impacts of the proposed reclassification and potential sale, particularly in relation to the history of the land and Barroul House ○ This is contrary to the statement of the CEO in the report to the Council meeting on 13 October 2022 where it was acknowledged that it would “impact significantly on community members, residents of Blue Haven Bonaira and also the staff of Blue Haven and Kiama Council ○ The planning proposal also incorrectly states that it will “improve the social and economic effect of the land by allowing the land to be developed as intended by the residential zone” - the land is already developed and being used for the purpose ○ Council failed to comply with the Gateway Determination in relation to a detailed assessment of the proposal against Section 9.1, Direction 5.2 – Reserving Land for Public Purpose ○ The planning proposal provides contradictory reasons for reclassification with some reasons not supported by evidence ○ Barroul House was restored with grant funding and with the intention of being used by the public ○ Matterson Hall is also available for public use as evidenced by Council’s fees and charges ○ There is conflicting information on Council’s website and in the planning proposal about how Council will use the funds ○ The change is not a minor reclassification



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
#19 Brian Petschler	<ul style="list-style-type: none"> o The planning proposal incorrectly suggests home care packages will be sold o Confusion over whether home care packages and community transport are included in the proposed sale o Council unlawfully delegated authority to the CEO to finalise the reclassification process o Concerned about the decision making process at the Council meeting on 13 October 2022 and the way it was handled by the Mayor and Council staff o Inconsistent information has been provided to the community about the financials of the Blue Haven Bonaira facility, in particular, the unfunded amount <hr/> <ul style="list-style-type: none"> o Opposed to the reclassification o Council should not have resolved to sell the land before the reclassification process was complete o There needs to be better information from Council to the community about the proposed sale o It appears that only the sale option has been explored and much information has been considered in confidential meetings o Several years ago, Council approved the creation of an advisory panel to guide the operations of Blue Haven. No information about what the panel recommended or why it ended. o Significant government funding was provided to enable the Bonaira development to proceed on the basis it remained in community ownership o Barroul House was seen as a key community and heritage item to be retained for wider public use and this should be retained as a public reserve o Matterson Hall was always intended to service the needs of the aged care residents and wider community o Due consideration must be given to the public funding made available that enables the redevelopment o Formal legal advice should be obtained on whether the residents of the aged care facility and the residents of the independent living units have an “interest” in the land



Table 2	Submission summaries for the planning proposal
Submission	Issues / Concerns Raised
#20 Alan Woodward Kiama Central Precinct Committee	<ul style="list-style-type: none"> o Requests that Barroul House and the surrounding parklands be excised from the reclassification process on the basis that the heritage building and lands are not part of the aged care facility and operations and should be maintained as community assets and public land for general use o This reflects the original intent when Council acquired the land o Disagrees with the statement in the Planning Proposal that the reclassification will improve the social and economic effect of the land o The Kiama community has fought hard to retain Barroul House for public use o It also was not an oversight to classify the land as community at the time of acquisition. This reflected the community benefit of combining the historic Barroul House with the surrounding parklands, with an aged care facility and services o Barroul House was renovated with the intention it be used by the community. It was also renovated with funding from the State Government. Queried whether this funding needs to be repaid. o Also the performance space, Matterson Hall, was viewed as an addition to the community for general use, not exclusive use by the aged care facility. o The Committee recognises that circumstances have changed necessitating the sale of the independent living units and aged care facility because of Council's financial position o But the impact of these changed circumstances should be minimised as much as possible
#21 Chris Cassidy South Precinct	<ul style="list-style-type: none"> o Supports the position of the Kiama Central Precinct Committee to exercise Barroul House from the reclassification process



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Attachment 2 – Kiama Municipal Council Financial Sustainability

Whilst the reclassification of 14A Bonaira Street, Kiama - Lot 2 DP1215276 is primarily a planning decision, based on meeting the requirements of the Local Government Act, questions have been raised by the community through the exhibition process about the financial sustainability of Council. The Planning Proposal has also referenced Council's intent through the resolution of October 2022, for the land and associated business of Blue Haven Bonaria to be sold.

Kiama Municipal Council is structured around two distinct businesses, one being the aged care residential facility and retirement village operations known as Blue Haven and the other being the traditional local government services. The matters facing KMC are not unusual to local governments, cash flow, asset management, governance issues are all issues that councils experience, however the added complexity of the aged care business presents an unusual circumstance.

Kiama Municipal Council has had challenges in meeting the OLG benchmarks for financial sustainability on an annual and ongoing basis. Through the adopted plans and policy position of Council (which includes the proposal to sell Blue Haven - subject to this reclassification process), Council will remain committed to the principles of financial sustainability and good financial management.

On 8 November 2022 Council received a Performance Improvement Order from the Office of Local Government and a temporary advisor was appointed. The order primarily relates to Council's financial position and makes specific reference to the Blue Haven aged care facilities. A final compliance report is due by 30 June 2023. Council has stated within both the Strategic Improvement Plans (1 and 2) and Performance Improvement Compliance Order Reports, that the sale of Blue Haven (subject to the reclassification process) forms an integral part of the long-term financial plan for the organisation and its strategic direction.

Council has been very public about its current financial sustainability concerns and proactive steps have been taken. This follows information from the Auditor General of NSW including going concern and the recent Management Letter, received in May 2023. Council has endorsed in February 2023 our Financial Sustainability Strategy and working draft Property Divestment Plan. Coupling this with monthly financial reports and the development of the draft LTFP and budget for 23/24. These documents clearly show the precarious financial predicament that Council faces and have been provided to the public.

As has been previously advised to Council both the OLG and TCorp are regularly seeking updates on the status of this process and the timeframe expected for divestment (subject to the reclassification). Should Council seek to not finalise the planning proposal and retain the land in community classification, the State Government may seek to take further actions against Council and ongoing financial support through TCorp may also be revoked.

As outlined in Council's key strategic documents there is a need to ensure ongoing liquidity and divestment of assets to ensure long term financial sustainability of the organisation. This is articulated in the draft divestment strategy, liquidity plan and long term financial plan.

Kiama Municipal Council's Long-Term Financial Plan (LTFP) contains a set of long-range financial projections based on a set of assumptions and covers a 10-year time period from 2023/2024 to 2032/2033.

The LTFP was prepared based on the Strategic Improvement Plan (SIP) and parameters defined in Kiama Municipal Council Liquidity Plan and Financial Sustainability and Cash Flow Strategy adopted by Council on 28 February 2023 with the key strategies being:

- Asset Divestment in the 2023/2024 financial year including sale of Bonaira site and services component of Blue Haven at the end of next financial year.
- Refinancing \$15 million TCorp loan with the repayment of the loan tied to sale of Bonaira site and associated business
- Capital Works Program focus on reserve funded projects with minimum allocation from unrestricted cash
- Achieving operational efficiencies starting from 2024/2025 financial year.

As outlined within the LTFP the sale of the Blue Haven site and assets within, are pivotal to the financial sustainability of Kiama Council. The reclassification process will enable the sale to proceed.

The Long-Term Financial Plan demonstrates that with the implementation of the strategies summarised above (including the sale of Blue Haven subject to the reclassification process) Kiama Council (consolidated) will achieve a balanced budget with the positive unrestricted cash movement by 2026/2027 financial year. The positive unrestricted cash movement will continue in future years. This will allow Council to build-up its unrestricted cash balance to a sustainable level by 2032/2033 financial year.

The draft LTFP presents financial forecasts associated with the following assumptions in line with the Liquidity Plan and Financial Sustainability and Cash Flow Strategy:

- Subject to the reclassification process the LTFP assumes that the divestment is expected to occur by the end 2023 calendar year. However, a conservative approach was taken in LTFP with the divestment estimated for June 2024. Improving the income statement by some \$2M initially and up to \$4M thereafter.
- Refinancing \$15 million TCorp loan with the loan repayment may be dependent on the timing of the finalisation of the divestment Bonaira site (subject to reclassification).

According to Council's LTFP, the current financial position shows that Council will face a continued deficit next year and will need to compensate for the reduction in unrestricted cash with the proceeds from the sale of various assets, including the Bonaira (subject to reclassification) by June 2024. The proposed sale of the Bonaira site (subject to reclassification) will significantly improve the Council's financial position, and contribute to improving the structural deficit, by achieving reasonable operational efficiencies and completeness of the upcoming service reviews.

Financial sustainability is a major challenge faced by the majority of councils in New South Wales, including Kiama Municipal Council. However, Kiama Council faces an additional challenge due to the significant resources consumed by the Blue Haven aged care operations, which generate an annual deficit of over \$3 million for the Bonaira site. The Long Term Financial Plan projections demonstrate that the sale of the Bonaira site is critical for the financial sustainability of Kiama Council. It will provide liquidity and cash reserves and also result in ongoing operational savings. It will also remove \$72M debt and current liability to residents.

The following adopted position of Council has been established at the meeting of 13 October 2022.

22/296OC - Resolved that Council rescind motion 22/283OC from the September 2022 ordinary meeting and replace with the following:

That Council

- 1. Retain Blue Haven Terralong (Lot 71 DP 831089) in Council ownership and ensures comprehensive engagement with the community and residents, giving consideration to future use of the decommissioned aged care facility.*
- 2. Undertake to sell Blue Haven Bonaria (Lot 2 DP1215276) subject to the completion of the required notice in accordance with Section 34 of the Local Government Act (public notice to classify or reclassify public land) and the associated planning proposal process, which council has previously resolved to allocate funding towards at its June ordinary meeting.*
- 3. Continue to inform and engage with the community, including those who are cared for by Blue Haven, to reassure all parties that the quality of care and standard of service of the Independent Living Units and Residential Aged Care Facility will be maintained, regardless of ownership.*
- 4. Continue the work on the urgent need to improve cash flow to demonstrate 'going concern' status and improve the long-term financial position of Council, including, but not limited to: a. paid parking and resident permits b. ensuring a proportion of revenue generated from any sale or divestment of any assets be invested in strategies for the generation of income and continuous revenue streams.*
- 5. Rescind its previous resolution on the sale through open tender for Barney Street lot and refer to the separate confidential report on this subject matter.*

Council's long term financial plan is intrinsically linked to the Delivery Program 2022/2026 and the Operational Plans 2023/2024 of Council. It is stated under the broader Theme of "Financially Sustainable Council" that our Strategic goal is that "Public funds and assets are managed strategically, transparently and efficiently. Council will: be financially sustainable and have the skills, systems and staff to manage public funds and assets on behalf of our community".

Council has for many years operated aged care services, however over time the requirements and costs impacts have changed and the business has grown. Now and in the future, Council will be continually undergoing a comprehensive sustainability review process. This review involves analysing services provided so that it is clear what services are provided and how the services are delivered in a financially sustainable way. The purpose is to ensure that Council's services are affordable and reflect the local community needs and expectations.